

CITY OF DURHAM, NORTH CAROLINA

MEMORANDUM

October 16, 1997

MEMO TO: P. Lamont Ewell, City Manager

THROUGH: Cecil Brown, Senior Assistant City Manager
Fred Ravin, Director of Solid Waste Management

FROM: Nancy L. Newell, Solid Waste Manager/Engineer

SUBJECT: Ordinance Regarding the Disposal Ban of Recyclables and
the Use of the Transfer Station.

Executive Summary

In response to the City of Durham's Solid Waste Management Plan and direction from the City Council, an ordinance revision is necessary to implement a ban on the disposal of target recyclables (cardboard, newspaper, glass and aluminum) and to establish rules on the use of the transfer station. Enforcement of the disposal ban will be phased in gradually, with specially targeted education efforts being the initial step. For safety and operational efficiency, sections of the ordinance regarding the use of the transfer station will be added. It is recommended that the City Council approve the ordinance.

Background

As part of the local government's responsibility for solid waste management, the City Council approved a Solid Waste Management Plan in June, 1997. One method of waste reduction encouragement included in the plan is the adoption of an ordinance that excludes target recyclables from materials that may be disposed with regular refuse. The City Council directed the staff to develop this ordinance earlier during this year.

There are currently ordinance sections that pertain to the use of the City's landfill and the area around the landfill. The transfer station and the area surrounding that facility will be used similarly by the public and by large equipment.

Statement of Problems/Issues

The City Council has approved a Solid Waste Management Plan that includes a waste reduction goal of 25% by 2001 and 40% by 2006. In order to reach this goal, an ordinance that bans the disposal of target recyclables has been developed. Since there are recycling programs available, which include curbside collection for residents, drop-off sites for residents and small businesses, and commercial firms to perform the services for large businesses and industries, there are

reasonable alternatives to disposal of target recyclables for the community. Increased participation in these programs can result in reduced waste that will be sent through the transfer station to the landfill in Virginia, more revenues to offset the cost of providing recycling services, and more creative ways to reach the waste reduction goals established by the City.

Recognizing that complying with this ordinance will require life-style changes for some citizens, an intensive education program will be developed and implemented during the initial six months after the effective date of the ordinance. This education program will endeavor to help citizens understand the personal impacts their actions can have on our community and that in July, 1998 enforcement of the ordinance will begin with fee penalties. The implementation of enforcement measures, which include projected fees of approximately \$15 for residents, \$50 for stationary container customers, and double tipping fees for transfer station customers, will be phased in a manner that allows for the education program to be effective before punitive methods are needed. The proposed program phasing includes: January to June, 1998 - public education; July 1998 - education continues and fee is charged at the transfer station; January, 1999 - education continues and fee is charged to stationary container customers; July, 1999 - education continues and fee is charged to residential customers.

Ordinances that are pertaining to the use of a landfill need to be changed to reflect the fact that the City will have a transfer station facility as well as a rubble landfill for disposal. Current ordinance sections do not include the transfer station in the description. Most sections will use the term "disposal area" in place of landfill so that the regulations will apply to the rubble landfill, the transfer station area and the yard waste area.

Alternatives

The alternative to the disposal ban is educate the public, but omit any enforcement that requires citizens to participate in recycling programs. This has been effective for the last few years in reaching the current waste reduction status, but is not considered adequate incentive to reach the City's waste reduction goals. Small businesses and commercial establishments have not been taking advantage of the recycling opportunities. Participation by this sector of the community is expected to influence our waste reduction goal significantly.

Financial Impacts

The revenues from this ordinance are unknown at this time and therefore will not be included in the budget. Once revenues are available, a projection can be made and included in future budgets. It is hoped that the revenues that result from this ordinance will be adequate to cover the enforcement expenses.

Expenses initially will be for the education program. Brochures, videos, special presentation materials, etc. will be needed. An initial estimate of \$50,000 for the current year's budget could be covered by the savings generated from the transfer and haul contract. Once enforcement is needed throughout the City, there may be a need to add one or more inspector positions to the staff. The current plan is to use solid waste supervisors to perform these duties.

Fees to be assessed as civil penalties for non-compliance with this ordinance will be brought back to City Council for their approval in early 1998.

M/WBE Summary

Due to the nature of this report, a review of the M/WBE requirements was not conducted.

Recommendation

It is recommended that the City Council adopt an ordinance amending Chapter 10 of the Durham City Code by including revised sections regarding the banning of disposal of recyclables and the use of a transfer station.

**AN ORDINANCE AMENDING CHAPTER 10 OF THE DURHAM CITY CODE
BY INCLUDING REVISED SECTIONS REGARDING THE BANNING OF
DISPOSAL OF RECYCLABLES AND THE USE OF A TRANSFER STATION**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

Section 1. That "Section 10-1. Definitions " be amended to include the following in alphabetical order:

Disposal Area - Area where refuse is unloaded from collection trucks, either a landfill, rubble landfill, compost facility or a transfer station

Recyclables - Materials that can be converted into component materials for the manufacture of new products.

Target Recyclables - Materials, declared as target recyclables by written policy of the Director, that can be converted into component materials for the manufacture of new products and that have a stable market which assures that the materials will be sold and will not need to be stored or disposed.

Tipping Fee - A monetary charge levied per ton for the disposal of garbage, yard waste, or other types of waste at a City disposal area.

Transfer Station - A facility that allows for the unloading of solid waste so that it can be put in large trailers or containers and transported to a sanitary landfill.

Section 2. That "Section 10-3. Persons authorized to haul away refuse set out for collection." be amended as follows:

Section 10-3. Persons authorized to haul away refuse and recyclables set out for collection.

No person other than a person under the authority of the Director shall haul away any refuse or recyclables set out for collection by the City.

Section 3. That Article III. PREPARATION, ETC., OF REFUSE FOR COLLECTION be amended as follows:

**Article III. PREPARATION, ETC., OF REFUSE AND RECYCLABLES
FOR COLLECTION**

Section 4. That "Section 10-50. Wrapping and draining garbage; refuse allowed in garbage receptacle." be amended as follows:

Section 10-50. Wrapping and draining garbage; refuse allowed in garbage receptacle; source separation of recyclables.

All garbage placed in receptacles shall be wrapped or contained in bags and shall be drained and free of wastewater. No liquids, except natural moisture contents of garbage, shall be placed in receptacles. Recyclables shall be properly prepared, separated from garbage and placed into a separate bin for collection. Recyclables shall not be put in the garbage receptacle.

Section 5. That the following sections be added:

Section 10-59.3. Use of Stationary Containers Reserved for Recyclables

All stationary containers reserved for recyclables, such as corrugated cardboard, glass, and plastics, shall be used for recyclable materials only. It shall be unlawful for other types of refuse to be placed in these stationary containers. There shall be a fee, established by action of the City Council, assessed to businesses that mix refuse in with recyclables.

Section 10-72. Disposal of Target Recyclables

Target recyclables, as well as other recyclables handled by the City, are to be placed in a recycling bin and set out on the curb for collection. There shall be a fee, established by action of the City Council, assessed to the property owner for mixing target recyclables with other refuse.

Section 6. That " Division 3. City Landfill Area" be amended as follows:

Division 3. City Disposal Area

Sec. 10-90. Disposition of privately hauled refuse, etc.

The Director may permit disposal of privately hauled refuse at a City disposal area under appropriate regulations and conditions.

Sec. 10-91. Materials delivered to be City property.

All materials, properly delivered to a City disposal area, shall become property of the City.

Sec. 10-92. Unauthorized separation, removal of materials delivered.

No person shall separate, collect, carry off, remove or disposal of materials delivered and deposited for disposal at the City disposal area unless authorized to do so by the Director.

Sec. 10-93. When disposal allowed.

Hours when disposal of refuse is permitted at the City disposal area shall be established by the Director and posted on the premises, and no such disposal of any materials shall be made by any person at any time other than the hours so prescribed.

Sec. 10-95. Responsibility of City for injuries to persons or vehicles.

The City will not be responsible for any injuries to persons hauling refuse to the City disposal area, while on the disposal area premises, nor will the City be liable for damage to vehicles from accidents on the premises. Provided, however, this section shall not be construed to apply to the employees of the City and City-owned equipment regularly employed on such premises.

Sec. 10-96. Fees.

The City Council may from time to time establish tipping fees for use of the City disposal areas. The City Manager may provide for periodic billing to frequent users of the City disposal areas.

Sec. 10-96.1. Target Recyclables.

The tipping fees established by this division shall apply to target recyclables. Where the load is comprised in whole or in part of an amount of target recyclables, the tipping fee charged shall be an amount equal to two (2) times the regular tipping fee.

Sec. 10-96.2. Fees for violations.

The City Council may from time to time establish fees to be assessed as civil penalties for violations of this ordinance.

Sec. 10-97. Use denied.

The Director may deny any person or business entity the use of City disposal areas for a period of up to one week for failure to comply with ordinances or regulations relating to the City disposal areas. The Director may deny any person or business entity use of City disposal areas for failure to pay the fees prescribed herein, until those fees have been paid.

Sec. 10-99. Disposal Area regulations.

The City disposal areas shall be operated in accordance with the rules and policies established by the Director and the laws of the State of North Carolina. The following items shall not be accepted at City disposal areas: 1) Waste determined by the Director or the Director's designee to be too hazardous to be safely disposed of at City disposal areas; and 2) Automobiles, and other items determined by the Director to be inappropriate for a City disposal area.

Section 7. This ordinance shall be effective on January 1, 1998.

CITY OF DURHAM, NORTH CAROLINA

MEMORANDUM

November 20, 1997

MEMO TO: P. Lamont Ewell, City Manager

THROUGH: Cecil Brown, Senior Assistant City Manager
Fred Ravin, Director of Solid Waste Management

FROM: Nancy L. Newell, Solid Waste Manager/Engineer

SUBJECT: Resolution Setting The Penalty Fees for Violation of The Disposal Ban of
Recyclables Ordinance

Executive Summary

The ordinance amendment regarding the banning of disposal of recyclables that was passed by City Council on November 3, 1997 referred to civil penalty fees but did not set such fees. This resolution sets such fees as recommended by the Solid Waste Management Department and approved by City Council. The Solid Waste Management Department recommends that the City Council adopt this resolution.

Background

As part of the local government's responsibility for solid waste management, the City Council approved a Solid Waste Management Plan in June, 1997. One method of waste reduction encouragement included in the plan is the adoption of an ordinance that excludes target recyclables from materials that may be disposed with regular refuse. The City Council adopted this ordinance earlier during this year. The civil penalty fees associated with this ordinance were not set in the ordinance. This resolution sets such fees.

Issues/Analysis

The City Council requested that the fees be set before January 1, 1998. These fees are intended to be assessed after an extensive education program has been provided. The penalty on trucks bringing target recyclables to the landfill will be equal to the tipping fee for the load. It will be charged effective on July 1, 1998. The penalty fee for stationary containers that contain target recyclables is \$50 and the penalty fee for residents including target recyclables in their waste is \$15.

Also beginning in July, 1998 is the fee for putting garbage in containers designated for cardboard only. This has been a problem and has resulted in many loads that were rejected for recycling. It appears that several stationary container customers are using their cardboard containers as extra garbage containers. The City does not charge for the collection of cardboard. This material is collected on a special day and is marketed at a local paper market. Many loads have been rejected and the City's price is below market because of a large amount of contamination. This fee is intended to make the commercial cardboard recycling program more efficient and less costly.

Alternatives

One alternative to the penalty fees is voluntary cooperation only. It is felt that voluntary cooperation alone would not be sufficient motivation for compliance with the ordinance that bans the disposal of target recyclables. The permit for operation of the transfer station includes a condition that "the owner or operator of a municipal solid waste management facility shall not knowingly dispose of any type or form of municipal solid waste that is generated within the boundaries of a unit of local government that by ordinance : 1. Prohibits generators or collectors of municipal solid waste from disposing of that type or form of municipal solid waste; and 2. Requires generators or collectors of municipal solid waste to recycle that type or form of municipal solid waste." This restriction makes it even more important to assure compliance with the disposal ban ordinance.

Financial Impacts

The revenues from this ordinance are unknown at this time and therefore will not be included in the budget. Once revenues are available, a projection can be made and included in future budgets.

Expenses initially will be for the education program. Brochures, videos, special presentation materials, etc. will be needed. An initial estimate of \$50,000 for the current year's budget could be covered by the savings generated from the transfer and haul contract. Once enforcement is needed throughout the City, there may be a need to add one or more inspector positions to the staff. The current plan is to use solid waste supervisors to perform these duties.

M/WBE Summary

Due to the nature of this report, a review of the M/WBE requirements was not conducted.

Recommendation

It is recommended that the City Council adopt a resolution setting the penalty fees for violation of the disposal ban of recyclables ordinance.

**RESOLUTION SETTING PENALTY FEES FOR NONCOMPLIANCE WITH AN
ORDINANCE REGARDING THE BANNING OF DISPOSAL OF
RECYCLABLES**

WHEREAS, Sec. 10-96.2 of the City Code entitled **Fees for violations** states that the City Council may from time to time establish fees to be assessed as civil penalties for violations of Section 10, and

WHEREAS, such fees for violations in regards to the ban of disposal of recyclables have not been set,

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

SECTION 1. The civil penalty fee for violations of *Sec. 10-50. Wrapping and draining garbage; refuse allowed in garbage receptacle; source separation of recyclables* shall be fifty dollars (\$50) for stationary container customers and fifteen (\$15) dollars for residential household customers. This fee shall be charged to stationary container customers effective January 1, 1999 and to residential household customers effective July 1, 1999.

SECTION 2. The civil penalty fee for violations of *Sec. 10-59.3. Use of Stationary Containers Reserved for Recyclables* shall be fifty dollars (\$50). This fee shall be charged effective July 1, 1998.

SECTION 3. The civil penalty fee for violations of *Sec. 10-96.1. Target Recyclables* shall be an amount equal to the tipping fee for the load that included target recyclables. Therefore, for loads violating Sec. 10-96.1, a tipping fee would be charged, plus a civil penalty of the same amount would also be assessed against the violator. This fee shall be charged effective July 1, 1998.

SECTION 4. This Resolution shall be effective January 1, 1998.